IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11290 of 2006

DATE OF DECISION: 29-01-2007

Satish Kumar

.....Petitioner

VERSUS

State of Haryana etc.

.....Respondents

CORAM:- HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.GS Shahpuri, Advocate
for the petitioner.

Dr.Anmol Rattn Sidhu, Additional Advocate General,
Haryana.

Ashutosh Mohunta, J.(Oral)

The petitioner was appointed as a Clerk on adhoc basis on 12-10-1970 in a private College, which was later merged into Government National College, Sirsa on 22-1-1979.

On 1-1-1986, the pay scale of the petitioner was Rs.1400-2600 and thereafter the pay of the petitioner was revised in the pay scale of Rs.5000-7850. The pay of the petitioner was fixed at Rs.5300/-. The petitioner continued to be paid on that basis.

On 15-4-2006, a letter was written by Principal Government National College, Sirsa to the petitioner wherein it was stated that the pay of the petitioner has wrongly been fixed and the petitioner is liable to make payment of excess amount received by him to the tune of Rs.25227/-. The petitioner has impugned the letter dated 15-4-2006 (Annexure P1) in the present writ petition.

Learned counsel for the petitioner has contended that the pay of the petitioner was fixed in pursuance to the Policy of the State Government in the revised pay scale without their being any mis-representation and hence no recovery can be effected from the petitioner.

In view of the judgment rendered by the Hon'ble Apex Court in **Sahib Ram** Vs. **State of Haryana and others** 1995 Supp.(1) SCC 18, wherein it has been held by the Hon'ble Supreme Court that the upgraded pay scale given due to wrong construction of relevant order by the authority concerned without any misrepresentation by the employee, then in such circumstances recovery of the excess payment already made cannot be recovered.

Learned counsel for the petitioner has also relied on a Division Bench judgment of this court in **Sudarshan Kumar Sood and others** Vs. **Bhakra Beas Management Board, Chandigarh and others** reported as 2006(1) RSJ 308.

Learned State counsel admits that there was no mis-representation on the part of the petitioner at the time when higher pay scales were granted to him.

In view of the above, as the petitioner had not mis-represented in any manner to the Department, hence, the present case is clearly covered by the judgment rendered in **Sahib Ram's case(supra)** and, accordingly, we quash Annexure P1 and hold that the respondents shall not recover any excess payment made to the petitioner.

(ASHUTOSH MOHUNTA)
JUDGE

(R S MADAN)
JUDGE

January 29, 2007
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